

REMARKS

In response to the restriction requirement which the Examiner imposed, Applicants elect, without traverse, to prosecute claims 1-14, 41, 46 and 47, *i.e.*, the Group I claims. To this end, Applicants have withdrawn all of the remaining claims, but reserve the right to reintroduce these claims in accordance with the provisions of MPEP §821.04, upon an indication of the allowability of a currently pending product claim.

Applicants have amended the figure legend as requested.

Under item 13 of the subject Action, Applicants elect the Tet repressor.

With respect to item 16 of the subject Action, Applicants respectfully traverse the Action's finding that claims 3, 9 and 11-14 do not reflect proper Markush claims under MPEP 803.02. MPEP section 803.02 states that Markush claims are proper where they share a common utility and share a substantial structural feature. Thus, in the case of claim 3, all of the members of the members of the group are "viral vectors" and all have the common structural features of being composed of nucleic acid. Applicants therefor request reconsideration, or a statement from the examiner that the various members are considered to be patentably distinct.

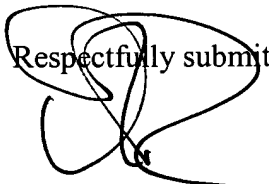
Nevertheless, in order to progress the case, Applicants elect:

- a) the Tetr repressible promoter in claim 9;
- b) promoter inducible by tetracycline or tetracycline analog in claim 11;
- c) lentiviral vector in claim 3.

The Examiner's request for claims readable on the foregoing was not entirely clear in terms of whether the Examiner was requesting all claims readable on each *individual* species, or all claims readable on the combination of elements. Applicants will assume the latter (*e.g.*, the

subject matter of claim 1 to the extent it covers a Tetr repressible promoter and a lentivirus vector. That being said, such claims would include claims 1-7, 9-11, 13, 41, 46 and 47.

The Examiner is invited to contact the undersigned attorney at (512) 536-3055 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,


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